

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re National Prescription Opiate Litigation

THIS DOCUMENT RELATES TO:

*Case Track 12: City of Rochester v. Purdue
Pharma, L.P., No. 19-op-45853*

MDL No. 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

Declaration that Party was Unable to File in a
Timely Manner Due to Technical Difficulties

Please take notice that Defendants Express Scripts, Inc., and ESI Mail Pharmacy Service, Inc. (**the Express Scripts Entities**), were unable to file their **Answer** to Plaintiff's Original Complaint and Supplemental Amended Complaint in a timely manner due to technical difficulties. The deadline for filing the Answer was October 7, 2024. We filed the document at 12:28 AM on October 8, 2024. Rochester Dkt. No. 147. Consistent with Section 12 of the Court's Electronic Filing Policies and Procedures Manual, I have prepared this declaration that sets forth below the technical issues that prevented us from filing the Answer in a timely manner and the good faith efforts we made prior to the filing deadline to both file in a timely manner and to inform the other parties that we could not do so.

At 11:15 PM on October 7, 2024, an associate at my firm sent a file-ready, PDF/A-formatted copy of the Answer to the Managing Attorneys' Office (**MAO**) of Quinn Emanuel Urquhart & Sullivan, LLP (**Quinn Emanuel**), instructing the MAO to file the Answer. The MAO, which is responsible for handling all manner of filings for Quinn Emanuel attorneys, confirmed receipt at 11:17 PM. The MAO endeavored to file the Answer but repeatedly received an error message from the CM/ECF system when trying to file the Answer. Specifically, after selecting the filers of the Answer (Express Scripts, Inc., and ESI Mail Pharmacy Service, Inc.), and clicking

“Next,” the system would generate an error message stating that the MAO had to go back and choose a filer, even though the filers had already been chosen. Because the system kept telling the MAO to select a filer, even though the MAO had done so, the MAO was unable to file the Answer. Multiple members of the MAO attempted to file the document in multiple different ways, including by trying to file it on the Rochester docket and on the MDL docket, and by trying to file it on behalf of both the Express Scripts Entities and on behalf of just one of the Entities. Each time, the MAO received the same error message that a filer needed to be chosen, which prevented the filing of the Answer.

During this time, I and other Quinn Emanuel attorneys, including Elisabeth Miller, were in constant communication with the MAO and worked to assist with the filing. We also enlisted an experienced Quinn Emanuel paralegal to assist with the filing. The paralegal encountered the same error message that the MAO had received. While the MAO and paralegal continued to attempt to file the Answer, I instructed Ms. Miller to serve on Plaintiff a copy of the Answer with a notification that we were experiencing technical difficulties with the filing. At 12:16 AM, Ms. Miller served on counsel for Plaintiff and Optum, through the PEC and Optum listservs, the file-ready version of the Answer, explaining that the Express Scripts Entities were experiencing technical difficulties with filing and that they were working to resolve these issues.

At 12:28 AM, the paralegal informed me and Ms. Miller that she had figured out a way to avoid the error message by changing the filing event to “Answer (other),” instead of using the traditional filing event “Answers to Complaints/Initiating Documents,” although under this filing event she was unable to select both Express Scripts Entities as filers. To ensure no further delay, I instructed her to proceed with filing the Answer with only Express Scripts, Inc., selected as a filer. At 12:28 AM on October 8, 2024, the Answer was filed on the Rochester and MDL dockets.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

/s/ Jonathan G. Cooper

Jonathan G. Cooper

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